99TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
99-858

GRAIN QUALITY IMPROVEMENT ACT OF 1986

SEPTEMBER 20, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. DE LA GARZA, from the Committee on Agriculture, submitted the following

REPORT

[To accompany H.R. 5407]

The Committee on Agriculture, to whom was referred the bill (H.R. 5407) to amend the Grain Standards Act of 1916 to establish the policy of providing grain of high quality to both domestic and foreign buyers, to better define the purpose of Official United States Standards for Grain, and to provide for the closer regulation of dockage and foreign material in grain, having considered the same, report favorably thereon with an amendment, and an amendment to the title, and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Grain Quality Improvement Act of 1986".

DECLARATION OF POLICY

SEC. 2. Section 2 of the United States Grain Standards Act (7 U.S.C. 74) is amended by adding at the end thereof the following:

"It is also declared to be the policy of Congress to promote the marketing of grain of high quality to both domestic and foreign buyers; that the primary objective of the official United States standards for grain is to certify the quality of grain as accurately as practicable; and that official United States standards for grain shall—

"(1) define uniform and accepted descriptive terms to facilitate trade in grain;

"(2) provide information to aid in determining grain storability;

"(3) offer users of such standards the best possible information from which to determine end-product yield and quality of grain; and

"(4) provide the framework necessary for the markets to establish grain quality improvement incentives.".

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FOREIGN MATERIAL RECOMBINATION PROHIBITION

SEC. 3. Section 13 of the United States Grain Standards Act (7 U.S.C. 87b) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c)(1) To ensure the quality of grain marketed in or exported from the United States, no dockage or foreign material, as defined by the Secretary, including dust, once removed from grain shall be recombined with any grain; and no dockage or foreign material of any origin may be added to any grain.

"(2) Nothing in paragraph (1) shall be construed to prohibit—

"(A) the treatment of grain to suppress, destroy, or prevent insects and fungi injurious to stored grain;

"(B) the marketing, domestically or for export, of dockage or foreign material removed from grain when such dockage or foreign material is marketed separately and uncombined with any such whole grain or is marketed in pelletized form or as a part of a processed ration for livestock, poultry, or fish;

"(C) the blending of grain with similar grain of a different quality to adjust the quality of the resulting mixture;

"(D) the recombination of broken corn or broken kernels, as defined by the Administration, with grain of the type from which the broken corn or broken kernels were derived;

"(E) effective for the period ending December 31, 1987, the recombination of dockage or foreign material, except dust, removed at an export loading facility from grain destined for shipment as a cargo under one export official certificate of inspection when the recombination occurs during the loading of the cargo, when the purpose is to ensure uniformity of dockage or foreign material throughout that specific cargo, and when the separation and recombination are conducted in accordance with regulations issued by the Administrator;

"(F) the addition to grain of a dust suppressant, or the addition of confetti or any other similar material that serves the same purpose in an amount necessary to facilitiate identification of ownership or origin of a particular lot of grain; and

"(G) any other addition of foreign material that may be determined by the Secretary to be in the interest of grain producers and to be neutral or constructive in achieving the goal of ensuring the quality of grain marketed in or exported from the United States.

"(3) Effective for the period ending December 31, 1987, the Secretary, by regulation, may exempt from paragraph (1) the last handling of grain in the final sale and shipment of such grain to a domestic user or processor when such exemption is determined by the Secretary to be in the best economic interest of producers, grain merchants, the industry involved, and the public. Grain sold under an exemption authorized by this paragraph shall be consumed or processed into one or more products by the purchaser, but may not be resold into commercial channels for such grain or blended with other grain for resale; and neither products nor byproducts derived therefrom shall be blended with or added to grain in commercial channels except in accordance with an exemption granted by the Secretary under paragraph (2)(G).

"(4) This subsection shall become effective on May 1, 1987.".

COMPENSATION FOR MODIFICATIONS OF GRAIN CLASSIFICATIONS

SEC. 4. The United States Grain Standards Act (7 U.S.C. 71, et seq.) is amended by inserting after section 17B the following new section:

"COMPENSATION FOR MODIFICATIONS OF GRAIN CLASSIFICATIONS

"SEC. 17C. (a) The Secretary shall compensate a producer, grain merchant, grain processor, or grain exporter for loss of value of grain held in inventory if the person can show that the loss of value resulted from a change by the Administrator in grain classifications under this Act or regulations based thereon.

"(b) Compensation under this section shall be paid only on the inventory of grain held by a person on the effective date of the change in classification and under procedures established by the Secretary by regulation.

"(c) Compensation may be paid under this section only for losses occurring after the date of enactment of this section.

"(d) Funds may be expended under this section only if provided in advance in an appropriation Act.".

INSECT INFESTATION

SEC. 5. Not later than six months after the date of enactment of this Act, the Administrator of the Federal Grain Inspection Service shall issue a final rulemaking that revises grain inspection procedures and standards under the United States Grain Standards Act to more accurately reflect levels of insect infestation.

STUDY OF PREMIUMS FOR HIGH-QUALITY GRAIN

SEC. 6. The Secretary of Agriculture, following public comment from and in consultation with grain producers, grain merchants, grain processors, and grain exporters, shall conduct a study of the feasibility and appropriateness of adjusting Commodity Credit Corporation grain premium and discount schedules to (1) encourage the delivery, storage, and export of high-quality, clean grain and (2) offer incentives to minimize the amount of moisture, foreign material, dockage, shrunken and broken kernels, and damaged kernels in lots of grain pledged as collateral for Commodity Credit Corporation loans or in grain owned by the Commodity Credit Corporation. The Secretary shall transmit the report, together with recommendations, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 180 days after the date of enactment of this Act.

REVIEW OF OPTIMAL GRADE PROPOSAL

SEC. 7. To evaluate the effects of moving to an optimal grain grading system, the Administrator of the Federal Grain Inspection Service shall publish in the Federal Register a detailed description of the proposals contained in H.R. 5354, 99th Congress, the Optimal Grain Grading Act of 1986, and shall solicit public comment, during a period of not less than 60 days, on (1) the optimal grain grading system as proposed in H.R. 5354 and (2) the general objective of improving grain quality by revising the official United States grain standards to provide greater economic incentives for production and sale of high-quality grain. The Administrator shall report to Congress, by May 1, 1987, on the comments received and on the Administrator's recommendations with respect to the matters on which comments were solicited.

STUDY OF UNIFORM END-USE VALUE TESTS

SEC. 8. (a) The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to conduct a study of the need for and availability of uniform end-use value tests for grain. The study shall include—

(1) a survey of domestic and foreign buyers of grain to determine what information about grain characteristics would be most useful to such buyers. The survey shall take into account those factors that buyers specify in their contracts, test for, measure, or would measure if tests were available, including but not limited to the following characteristics:

(A) the starch, oil, and protein content, breakage susceptibility, and individual kernel moisture of corn;

(B) the banking characteristics, protein content, gluten content and quality, and milling hardness of wheat; and

(C) the protein, oil, and free-fatty-acid content of soybeans; and

(2) a review of the development and availability of tests for the characteristics identified in the survey conducted under paragraph (1), including an evaluation of the costs of providing such tests.

(b)(1) The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to maintain an ongoing review to determine the end-use tests that are of economic value to buyers, and the availability and costs of such tests.

(2) The Administrator of the Federal Grain Inspection Service, to the extent practicable, shall revise official grain inspection and certification procedures to include within official inspection (as defined in section 3(i) of the United States Grain Standards Act) those terms that are identified under the study conducted uner subsection (a) as useful, available, and economically feasible.

(c) Not later than one year after the date of enactment of this Act, the Administrator of the Federal Grain Inspection Service shall submit a report to Congress setting forth the results of the study and actions taken under subsection (b)(2). The Ad-

ministrator shall report yearly to Congress on the ongoing review under subsection (b)(1).

Amend the title so as to read:

A bill to amend the United States Grain Standards Act to encourage the provision of grain of high quality to both domestic and foreign buyers, to better define the purposes of the official United States standards for grain, to provide for improved regulation of dockage and foreign material in grain, and for other purposes.y

Brief Explanation

H.R. 5407, as reported, will revise the United States Grain Standards Act declaration of policy to add statements that it is the policy of Congress to promote the marketing of high quality grain; that the primary objective of official United States grain standards is to accurately determine grain quality; and that the grain standards must provide a framework for the markets to establish grain quality improvement incentives. (Sec. 2.)

The bill will add a new provision to the Act to prohibit, effective May 1, 1987, the recombination of grain with dockage or any other foreign material (including dust) removed from grain. Further, no dockage or foreign material of any origin could be added to grain. (Dockage and foreign material are terms used in the grain industry to apply to a variety of items ranging from pieces of grain kernels to nongrain material.) The prohibition would apply to both export and domestic shipments. The Secretary of Agriculture would have discretionary power to exempt handling practices by "last handlers" in the United States who sell grain to a domestic user or processor such as a cattle feeder or distiller. Recombined grain covered by this exemption could not flow back into domestic or export channels, and the exemption would end on December 31, 1987. Also, the prohibitions could not be construed to prohibit a number of traditional marketing and handling processes. These protected steps include: Treatment of grains to kill insects; blending of grain of differing quality to adjust the quality of the resulting mixture; domestic and export sales of dockage and foreign material in the form of pellets or as part of processed livestock rations; recombining dockage or foreign material (except dust) taken out of grain at an export loading facility from grain earmarked for a single specific shipment when this is done to ensure even distribution of the material through the specific graded cargo, with the exemption ending on December 31, 1987; and returning broken corn or grain kernels into a lot of the same kind of grain. Also, the Secretary would have general discretionary power to permit the addition of foreign material to grain if the step would aid farmers and be neutral or favorable in ensuring the quality of exported grain. (Sec. 3.)

The bill will amend the Act to require the Secretary, subject to appropriation of funds, to compensate farmers and grain merchants, processors, or exporters if a change in Federal grain classification results in reducing the value of grain in inventory. (Sec. 4.)

The bill will direct the Secretary, in consultation with farmers and members of the grain industry, to make a study of the feasibility of adjusting the Commodity Credit Corporation grain premium and discount schedules to encourage the delivery, storage, and export of high quality grain. (Sec. 6.)

The bill will require the Secretary to publish and seek public comment on proposals contained in a pending House bill, H.R. 5354, the Optimal Grain Grading Act. (Sec. 7.)

The bill also will direct the Department of Agriculture to study the need for and availability of uniform tests to rate the suitability of grains and soybeans for specific uses. Where tests are found to be useful and economically practical, the Federal Grain Inspection Service would be directed to adopt them as far as practicable. (Sec. 8.) The agency would also be directed to issue a final rule within six months to make grain inspection standards more accurately reflect levels of insect infestation. (Sec. 5.)

Purpose and Need for the Legislation

The purpose of H.R. 5407 is to improve the quality of United States grain provided to both foreign and domestic buyers. The need for the legislation is made apparent by the rise in complaints filed recently for foreign purchasers of U.S. grain, and the increasing public perception that the quality of grain shipped from the United States does not match that of our major competitors.

According to the U.S. Department of Agriculture's Federal Grain Inspection Service, the Number of complaints made by foreign buyers rose substantially last year, as indicated by the following table:

Foreign complaints

Fiscal year:	*Foreign complaints*
1977	40
1978	23
1979	39
1980	46
1981	23
1982	13
1983	16
1984	24
1985	71
1986 [1]	30

[1] First 10 months of FY 1986 only.

The increase in foreign complaints has come about even though the volume of grain exported has declined by nearly 30 percent during the past five years. In addition, some agricultural producers suspect that foreign buyers, disappointed by the lack of responsiveness on the part of the Federal Grain Inspection Service or gain exporting firms to past complaints about their U.S. purchases, fail any more to register their concern about quality or, even worse, have taken their business elsewhere.

The rise in official complaints made by foreign buyers has been matched by an increase in public concern about reported deterioration in the quality of U.S. grain (See, for example: McDonald, Dale. Why the World Doesn't Want our Grain. Farm Journal, October 1985; Toner, Ann. Dirty Grain Won't Help U.S. Farmers. The Kansas City Star. July 14, 1985; Editorial. Keep U.S. Grain Clean. Wallaces Farmer. July 27, 1985; Anthan, George. Dirty Grain Sold by U.S. Spurs Dispute. Des Moines Register. November 30, 1985; UPI. Grain Grading System Gets a Low Grade. Chicago Tribune.

October 18, 1984; Erb, Gene. Complaints About Dirty U.S. Grain are on the Rise with World Buyers. Burrelle's. September 8, 1985; Inman, William H. Soviets Charge U.S. Grain "Little Better than Garbage". The Herald-Telephone (Bloomington, Indiana). July 9, 1985; UPI. USSR Upset About State of U.S. Corn. Journal of Commerce. December 7, 1984; Sinclair, Ward. Soviet Union Questions Quality of U.S. Grain. The Washington Post. November 22, 1984; Editorial. Dirty Grain Won't Sell The Lincoln Star, Lincoln, NE. November 19, 1985; and Beeder, David C. U.S. Grain Sales Lack Quality, Japanese Say. Omaha World-Herald. July 7, 1985.). This concern is exacerbated by reports that grain shippped by several U.S. competitors, including Canada, Australia, Argentina, and even the People's Repubic of China, is of superior quality.

The fact that U.S. agricultural exports must seek markets today in an intensely competitive internationl evironment significantly increases the importance of grain quality as a marketing factor. The United States, through recent changes in farm policy, has renewed its effort to be competitive in world grain markets on the basis of price. As long as other major producers of agricultural commodities attempt to match U.S. export prices, factors such as quality will gain in importance in determining who has an edge in reclaiming market share.

The legislation also is needed because current grain standards do not provide the incentive for either producers or grain handlers and exporters to increase the quality of grain. Producers who take care to market grain that exceeds current standards often are not provide the economic rewards for doing so. Meanwhile, the grain industry benefits by using the flexibility provided under the current system to purchase and market grain that, on its own, could not be sold as high quality grain, but whose marketing tends to reduce the overall quality of grain destined for export. Consequently, the measure is necessary to force an examination of current grain standards and marketing practices.

Section-by-Section Analysis

SECTION ONE—SHORT TITLE

The first section of the bill provides that it may be cited as the "Grain Quality Improvement Act of 1986."

SECTION 2—DECLARATION OF POLICY

Section 2 will amend section 2 of the United States Grain Standards Act to add several new provisions.

Under current law, section 2 of the Act states that grain is an essential source of the world's supply of food and feed, and that all grain and transactions regulated under the Act either are in interstate or foreign commerce or substantially affect such commerce, with regulation under the Act being necessary to prevent or eliminate burdens on such commerce and to regulate such commerce effectively. It also establishes it to be the policy of Congress to—

(1) provide for the establishment of official United States standards for grain;

(2) promote the uniform application of the standards by official inspection personnel;

(3) provide for an official inspection system for grain; and

(4) regulate the weighing and certification of the weight of grain shipped in interstate or foreign commerce;

with the objectives that grain be marketed in an orderly and timely manner and that trading in grain be facilitated.

The new provisions to be added by section 2 of the bill state that it is also declared to be the policy of Congress to promote the marketing of grain of high quality to both domestic and foreign buyers; that the primary objective of the official United States standards for grain is to certify the quality of grain as accurately as practicable; and that official United States standards for grain are to—

(1) define uniform and accepted descriptive terms to facilitate trade in grain;

(2) provide information to aid in determining grain storability;

(3) offer users of such standards the best possible information from which to determine end-product yield and quality of grain; and

(4) provide the framework necessary for the markets to establish grain quality improvement incentives.

SECTION 3—FOREIGN MATERIAL RECOMBINATION PROHIBITION

Section 3 will amend section 13 of the United States Grain Standards Act, which itemizes prohibited acts under the Act, to redesignate subsection (c) as subsection (d) and insert a new subsection (c). Persons who violate section 13 are subject to criminal penalties under section 14 of the Act, and civil penalties and suspension of grain inspection and weighing services under section 10 of the Act.

Proposed new subsection (c), which would become effective on May 1, 1987, would prohibit certain acts relating to the combination of dockage and foreign material with sound grain, but provide certain exemptions from the prohibitions.

Specifically, to ensure the quality of grain marketed in or exported from the United States, the recombination of grain with dockage or foreign material, as defined by the Secretary, including dust, removed from the grain would prohibited, and the addition to grain of dockage or foreign material of any origin would be prohibited.

[NOTE: See Appendix A for a brief description of how dockage and foreign material are defined under current regulations.]

However, these prohibitions would not be construed to bar—

(1) the treatment of grain to suppress, destroy, or prevent insects and fungi injurious to stored grain;

(2) the marketing, domestically or for export, of dockage or foreign material removed from grain when such dockage or foreign material is marketed (A) separately and uncombined with whole grain or (B) in pelletized from or as a part of a processed ration for livestock, poultry, or fish;

(3) the blending of grain with similar grain of a different quality to adjust the quality of the resulting mixture;

(4) the recombination of broken corn or broken kernels, as defined by the Administrator of the Federal Grain Inspection Service, with grain of the type from which the broken corn or broken kernels were derived;

(5) effective for the period ending December 31, 1987, the recombination of dockage or foreign material, except dust, removed at an export loading facility from grain destined for shipment as a cargo under one export inspection certificate when (A) the recombination occurs during the loading of the cargo, (B) the purpose is to ensure uniformity of dockage or foreign material throughout that specific cargo, and (C) the separation and recombination are conducted in accordance with regulations issued by the Administrator;

(6) the addition to grain of a dust suppressant, or the addition of confetti or any other similar material in an amount necessary to facilitate identification of ownership or origin of a particular lot of grain; and

(7) any other addition of any foreign material determined by the Secretary of Agriculture to be in the interest of grain producers and to be neutral or constructive in achieving the goal of ensuring the quality of grain marketed in or exported from the United States.

Further, proposed new subsection (c) would permit the Secretary of Agriculture, effective for the period ending December 31, 1987, to exempt from the prohibitions, by regulation, the last handling of grain in the final sale and shipment of grain to a domestic user or processor when the exemption is determined by the Secretary to be in the best economic interest of producers, grain merchants, the industry involved, and the public. Grain sold under such an exemption must be consumed or processed into one or more products by the purchaser, and could not be resold into commercial channels for grain or blended with other grain for resale. Also, products or byproducts derived from such grain could not be blended with or added to grain in commercial channels except in accordance with the exemption granted by the Secretary as described in clause (7) of the preceding paragraph.

SECTION 4—COMPENSATION FOR MODIFICATION OF GRAIN CLASSIFICATIONS

Section 4 will add a new section 17C to the United States Grain Standards Act. The proposed new section would require the Secretary of Agriculture to compensate any farmer, grain merchant, grain processor, or grain exporter for loss of value of grain held in inventory if the person can show that the loss of value resulted from a change by the Administrator of the Federal Grain Inspection Service in grain classifications under the Act or regulations based thereon. Compensation would be paid only on the inventory of grain held by a person on the effective date of the change in classification and under procedures established by the Secretary by regulation.

Further, compensation could be paid under the new section 17B only for losses occurring after the bill is enacted, and funds could

be expended under section 17B only if provided in advance in an appropriation Act.

SECTION 5—INSECT INFESTATION

Section 5 will require the Administrator of the Federal Grain Inspection Service, not later than six months after the bill is enacted, to issue a final rulemaking that revises grain inspection procedures and standards under the United States Grain Standards Act to more accurately reflect levels of insect infestation.

SECTION 6—STUDY OF PREMIUMS FOR HIGH-QUALITY GRAIN

Section 6 will require the Secretary of Agriculture, following public comment from and in consultation with grain producers, grain merchants, grain processors, and grain exporters, to conduct a study of the feasibility and appropriateness of adjusting Commodity Credit Corporation grain premium and discount schedules to—

(1) encourage the delivery, storage, and export of high-quality, clean grain, and

(2) offer incentives to minimize the amount of moisture, foreign material, dockage, shrunken and broken kernels, and damaged kernels in lots of grain pledged as collateral for Commodity Credit Corporation loans or in grain owned by the Commodity Credit Corporation.

The Secretary would be required to transmit the report, together with recommendations, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 180 days after the date of enactment of the bill.

SECTION 7—REVIEW OF OPTIMAL GRADE PROPOSAL

Section 7 will require the Administrator of the Federal Grain Inspection Service—in order to facilitate an evaluation of the effects of moving to an optimal grain grading system—to publish in the Federal Register a detailed description of the proposals contained in H.R. 5354, 99th Congress, the Optimal Grain Grading Act of 1986, and to solicit public comment (during a period of not less than 60 days) on (1) the optimal grain grading system as proposed in H.R. 5354 and (2) the general objective of improving grain quality by revising the official United States grain standards to provide greater economic incentives for production and sale of high-quality grain. The Administrator would have to report to Congress, by May 1, 1987, on the comments received and on the Administrator's recommendations with respect to the matters on which comments were solicited.

[NOTE: The text of H.R 5354 is contained in Appendix B.]

SECTION 8—STUDY OF UNIFORM END-USE VALUE TESTS

Section 8 will require the Secretary of Agriculture to direct the Federal Grain Inspection Service and the Agricultural Research Service to conduct a study of the need for and availability of uniform end-use value tests for grain. The study would include a survey of domestic and foreign buyers of grain to determine what

information about grain characteristics would be most useful to such buyers. The survey would take into account those factors that buyers specify in their contracts, test for, measure, or would measure if tests were available, including but not limited to the following characteristics:

(1) the starch, oil, and protein content, breakage susceptibility, and individual kernel moisture of corn;

(2) the baking characteristics, protein content, gluten content and quality, and milling hardness of wheat; and

(3) the protein, oil, and free-fatty-acid content of soybeans.

The study also would include a review of the development and availability of tests for the characteristics identified in the survey, including an evaluation of the costs of providing such tests.

Further, the Secretary of Agriculture would be required to have the Federal Grain Inspection Service and the Agricultural Research Service maintain on ongoing review to determine the end-use tests that are of economic value to buyers, and the availability and costs of such tests.

The Administrator of the Federal Grain Inspection Service would be required to revise, to the extent practicable, official grain inspection and certification procedures to include within official inspection (as defined in section 3(i) of the United States Grain Standards Act) those tests that are identified under the study as useful, available, and economically feasible.

Not later than one year after the date of enactment of the bill, the Administrator of the Federal Grain Inspection Service will submit a report to Congress setting forth the results of the study and actions taken, as required under this section, to revise inspection and certification procedures. Also, the Administrator would have to report yearly to Congress on the ongoing review of end-use tests required under this section.

Committee Consideration

HEARINGS

The Subcommittee on Wheat, Soybeans, and Feed Grains and the Subcommittee on Department Operations, Research, and Foreign Agriculture held two days of public hearings to review grain quality issues and Federal grain quality standards.

The first joint hearing was held on July 21, 1986, in Urbana, Illinois, and the second was held on August 5, 1986, in Washington, D.C.

At the field hearing in Urbana, the Subcommittees received testimony from a number of witnesses, including Members of Congress, other Federal and State officials, researchers from the University of Illinois and Iowa State University, representatives of the grain industry and producer organizations, and several agricultural producers.

In his testimony, Professor Lowell D. Hill from the University of Illinois expressed the view that—

> for too long the "knee jerk" reaction to foreign complaints has been (1) "they get what they pay for," (2) "If they aren't satisfied let them find another shipper," and (3)

> "high prices and unfavorable exchange rates encourage foreign buyers to complain." Responses of this type have done much to erode confidence in U.S. grain quality and they generate the impression that the U.S. government and industry just simply do not care about our customers or their problems . . . (A)s long as we deny that they are quality problems we can not expect to find a resolution or to regain the good will, confidence, or lost markets for grain from our customers.

Prof. Hill noted that his own research indicated that although exporters adjust the broken corn/foreign material measurement in corn to the allowable limit, the increase that occurs after the corn leaves the export elevator is "dramatic." None of this quality loss, he contends, can be attributed to illegal or unethical actions by exporters. However, he stated that the often significant deterioration that occurs in grain shipments enroute to their destination undermines the view that "complaints by foreign buyers about low quality are caused by unfavorable exchange rates." Dr. Hill then recommended a number of changes in grain standards that in his view would provide the economic increases necessary to improve grain quality, such as measuring and reporting broken corn and foreign materials separately and setting grade limits near zero with discounts for grain delivered below the standard.

Mr. Max Spencer, Vice President for Operations, World Grain Division, Continental Grain Company, and chairman of an industry-sponsored series of grain quality workshops, testified that some quality problems have occurred, particularly with corn and soybeans, as a result of adverse weather conditions in 1984 and 1985. However, he suggested that quality problems have been exaggerated and he cited the world grain glut, export subsidies by foreign competitors, the strong dollar, and politically-influenced trade policies as the major reasons for the decline in U.S. grain exports. He emphasized that current export loading practices and grain shipments generally conform to export contract terms.

A statement presented on behalf of the Millers' National Federation by Richard Siemer pointed to the fact that wheat sanitation and quality are vitally important to domestic flour millers—the single largest customers for U.S. wheat—and that concern about the complaints of foreign buyers only is thus inappropriate. He said that the domestic milling industry's two primary concerns are with the standards for reporting dockage and insects, and that the industry is dissatisfied with the manner and speed with which the Federal Grain Inspection Service has addressed the issue. The current method for reporting dockage, he claimed, is inaccurate, biased toward sellers, and encourages blending of high dockage wheat with clean wheat.

The Honorable George H. Ryan, Lt. Governor of Illinois, stated that attention should be focused on the concerns of foreign buyers since domestic users and processors, although they may prefer a higher quality product if available at the same cost, are content with the current grain grading system. He also emphasized that the recent erosion of the U.S. export market is not due solely to grain quality problems. He recommended that grain standards be

changed to provide the economic incentive for farmers to deliver a higher quality grain and for the grain marketing system to maintain this higher quality.

Mr. William G. Beeler, Director, Illinois Agricultural Stabilization and Conservation Service, said that the pressure on producers to harvest many acres within a limited time in the fall results in corn being harvested at relatively high moisture levels. This corn must then be artifically dried, a practice that, while in itself enhancing storability, contributes to the development of kernel damage, breakage, dust, and foreign material. Among other things, he urged additional research efforts aimed at producing earlier maturing corn varieties that can be harvested sooner at lower moisture levels, and that off-quality grain be diverted for use by ethanol producers, dry millers, and the feed industry—buyers who generally are less concerned about quality.

Mr. Terry Taylor, a farmer testifying on behalf of the Illinois Corn Growers Association, generally praised the proposals for improving grain quality made in the "Commitment to Quality" report issued by the grain industry following its series of public workshops on the issue. He also observed that while whole corn stores better at less than 15 percent moisture, breakage is rapidly accelerated at these lower moisture levels. Consequently, he recommended that the standard for "dry" corn be established at 15.5 percent moisture. He also endorsed the recommendation that the measurement of broken corn be separated from the measurement of foreign material in grading and reporting the quality of corn.

The American Soybean Association, represented by Mr. Roger Asendorf, expressed the need for grain standards to provide additional information to end-users about product yield and quality, and for economic incentives for improving overall grain quality. He noted that in the near future members of his organization will consider proposals to (1) provide for the inclusion of information on protein and oil measurements along with soybean grade reporting; (2) grade soybeans on a "zero foreign material basis," with market-determined discounts for beans that fail to meet this standard; (3) encourage the trading of soybeans on a dry matter basis; (4) change the interpretive line slides depicting soybean damage; (5) reduce damage to soybeans resulting from shiploading; and (6) encourage the Secretary of Agriculture to broaden the representation on the FGIS Advisory Committee to better reflect producer interests.

Mr. Ervain J. Friehe, Immediate Past Chairman and presently a member of the Nebraska Wheat Board, offered his views on behalf of the wheat board that current industry efforts to recommend improvements in grain standards did not go nearly far enough in addressing concerns about grain quality. He provided information to support his position that Nebraska wheat farmers generally produce and deliver wheat that greatly exceeds the quality of wheat that was exported in 1984 and 1985.

The Illinois Farm Bureau, in testimony by producer Willard Severns, called attention to the fact that in the intensely competitive world environment facing U.S. farmers today, it is a "buyers' market," and thus U.S. sellers must meet the price and quality of foreign competitors or risk an erosion in market share. He said that concern over grain quality could be resolved by changing

grain standards and industry practices to reward those who deliver grain of superior quality and penalize those who market inferior grain. In providing a number of specific recommendations for improving grain quality, Mr. Paul E. Fleener, Director, Public Affairs Division, Kansas Farm Bureau, requested that (1) the term "dockage" be eliminated from grain standards since it is not well understood by customers; (2) a tighter definition of "foreign material" be established; (3) incentives for blending dockage or foreign material be removed; and (4) a prohibition be enacted on introducing or reintroducing dust or screenings into export grain.

The President of the Illinois Farmers Union, Mr. Harold Dodd, contended that the current allowance of one percent foreign material in soybeans grading No. 1 is outmoded and should be replaced since, in his view, modern technology provides farmers the ability to produce and harvest beans with considerably less foreign material. He also suggested that standards be changed to allow "zero" foreign material with discounts imposed for grain whose quality falls below that level.

Dr. Charles R. Huburgh, Jr., Associate Professor, Agricultural Engineering Department, Iowa State University, urged implementation of a bonus program that would offer exporters payment-in-kind certificates if they sell grain of superior quality.

Mr. Gary W. McKinney, on behalf of the National Grain Trade Council, said that U.S. exporters should seek to offer superior quality grain when a foreign customer is shopping in the international market and finds comparable price and quality among major exporting countries. He explained that the industry practice of blending grain of different quality is necessary as a means of ensuring uniform shipments and providing a market for most of the grain produced. Mr. Jim McKinstray, Manager of the The Andersons Champaign Grain Division, stated that his company believes that grain quality is, at most, a contributing factor in the decline of U.S. grain exports. The real cause, he said, was lack of price competitiveness, world debt, and the lingering effects of U.S. embargoes. However, he noted that in the buyers' market in which U.S. exporters must compete, each and every grian quality issue raised, whether real or perceived, must be addressed.

The subsequent hearing in Washington also included Members of Congress, representatives of various producer and commodity organizations, and grain industry officials. Representatives of the General Accounting Office and the U.S. Department of Agriculture were also heard from.

Many of the comments offered by those testifying on behalf of the grain industry and producer and commodity organizations at the August 5 hearing paralleled statements received at the earlier field hearing.

Mr. William E. Gahr, representing the General Accounting Office, summarized the results of a GAO report requested by Congressman Doran entitled "U.S. Grain Exports: Concerns About Quality." He cited information indicating that foreign complaints about the quality of U.S. grain have been on the rise in recent years, and noted that official complaints registered with the Department of Agriculture increased threefold from fiscal year 1984 to fiscal year 1985, to 75. He said that analysis of data by GAO

"generally did not support wheat producers' contentions that the wheat leaving their farms is clean, but that dust and other material is added to it as it moves from their farms through interior points in the marketing stream to export." Finally, he claimed that in the past, the Federal Grain Inspection Service has resisted making certain changes in the Official United States Standards for Grain because of a lack of majority support within the industry and the agency's conviction that the standards are "standards of consensus."

Dr. Kenneth A. Gilles, Assistant Secretary for Marketing and Inspection Services, U.S. Department of Agriculture, reported that formal complaints filed by foreign grain buyers totaled 13 in 1983, 22 in 1984, and 71 in 1985. For the first 10 months of 1986, 30 complaints were made, although FGIS considered none to be valid.

Mr. Dan McGuire, Director of the Nebraska Wheat Board, offered several specific suggestions for improving grain quality, including the recommendation that the Department of Agriculture make Commodity Credit Corporation stocks of grain available to export elevators at no cost in order to finance the purchase, installation, and operation of high speed, state of the art grain cleaning systems. Mr. Robert I. Nooter, Assistant Director, National Affairs, American Farm Bureau Federation, recommended reducing tolerance levels within each grain grade and that the industry establish as a long-term objective a move toward the dry matter pricing of grain.

Mr. Marion Hartman, Vice President for Research, National Corn Growers Association, urged that appropriate State and Federal agencies adopt the same set of moisture meter calibrations for each type of grain to make all meters in the grain trade consistent with FGIS-approved meters. He also requested that the grain trade move toward the adoption of equivalent-bushel pricing for corn, with the standard base reference for dry corn established at 15.5 percent moisture.

Among the recommendations made by the American Soybean Association were the following: (1) market soybeans on a dry matter basis; (2) market soybeans on a zero foreign material basis; (3) endorse the FGIS effort to change interpretive line slides in soybeans; and (4) provide information on soybean oil and protein analysis. Mr. Winston Wilson, President, U.S Wheat Asociates, Inc., stated that the two major problems associated with U.S. export wheat shipments were excessive dockage and lack of cargo uniformity. He endorsed the new dockage reporting system proposed by the Federal Grain Inspection Service and economic incentives for procedures and handlers to reduce dockage levels. To enhance cargo uniformity, he urged that consideration be given to strengthening wheat grading standards and significantly tightening allowable variances below contract and grade specifications.

Summaries of Introduced Bills

SUMMARY OF H.R. 5407, AS INTRODUCED

Short title: The bill may be cited as the "Grain Quality Improvement Act of 1986".

Declaration of policy: The bill will add a new provision to section 2 of the United States Grain Standards Act, which states congressional policy relating to grain standards and grain inspection.

The new provision is a statement that it will be the policy of the United States to market grain of high quality to domestic and foreign buyers, and that the primary objective of U.S. official grain standards is to certify the quality of grain as accurately as possible.

The new provision also states that the U.S. grain standards must—

(1) define uniform and accepted descriptive terms to facilitate trade;

(2) provide information relating to grain storability and end-product yield and quality; and

(3) ensure the tools necessary for the markets to establish quality improvement incentives.

Foreign material recombination prohibition: The bill will amend section 13 of the U.S. Grain Standards Act, which lists prohibited acts relating to grain standards and grain inspection. Violators of section 13 are subject to criminal prosecution or civil penalties under other provisions of the Act.

The bill will add a new subsection to section 13 to prohibit, with exceptions—

(1) the recombination of dockage or foreign material with grain once the dockage of foreign material has been removed; and

(2) the addition of dockage or foreign material of any origin to grain.

Excepted from the prohibition would be the following:

(1) the treatment of grain to protect against insects and fungi injurious to stored grain;

(2) the export of dockage of foreign material removed from grain if (a) exported separately or (b) exported in pelletized form or as part of a processed feed ration;

(3) blending of grains of different qualities to adjust the quality of the resulting mixture;

(4) the addition to grain of (a) an approved dust suppressant or (b) confetti or other identifying material; and

(5) the addition of foreign material determined by the Secretary of Agriculture to be in the interest of grain producers and to be neutral or constructive in achieving the goal of ensuring the quality of grain exported from the United States.

The prohibition would become effective on May 1, 1987.

SUMMARY OF H.R. 5403, AS INTRODUCED

The bill will add a new provision to section 2 of the United States Grain Standards Act, which states congressional policy relating to grain standards and grain inspections.

The new provision is a statement that it will be the policy of the United States to market grain of high quality to domestic and foreign buyers, and that the primary objective of U.S. official grain standards is to certify the quality of grain as accurately as possible.

The new provision also states that the U.S. grain standards must—

(1) define uniform and accepted descriptive terms to facilitate trade;

(2) provide information relating to grain storability and end-product yield and quality;

(3) ensure that unusual characteristics of a particular lot of grain that could be deemed undesirable or limit usefulness of the grain are made known; and

(4) create the tools necessary for the markets to establish quality improvement incentives.

SUMMARY OF H.R. 5354, AS INTRODUCED

Short title: The bill may be cited as the "Optimal Grain Grading Act of 1986".

Declaration of policy: The bill will amend section 2 of the United States Standards Act, which states congressional policy relating to grain standards and grain inspections. It will delete language stating that the objectives of our grain standards and inspection policy are to ensure the marketing of grain in an orderly and timely measure and to facilitate trading in grain, and substitute new language, as follows:

(1) The objectives of our policy are to be:

(a) defining uniform and accepted descriptive terms to facilitate trade;

(b) providing information relating to grain storability and end-product yield and quality; and

(c) creating mechanisms for the marketplace to establish quality improvement incentives.

(2) Regulation under the Grain Standards Act is necessary to ensure the marketing of high-quality grain.

Optimal grade: The bill will amend several sections of the United States Grain Standards Act relating to grain standards, as established and used under that Act. Currently, the Act requires that standards be established that determine the "kind, class, quality, and condition" of grain, and that grain inspection under the Act be conducted so as to determine how the grain measures up against these criteria. (Generally, in implementing the Act, the Federal Grain Inspection Service uses five numerical grades and a sample grade designation to rate or grade grain under the standards.) Also under current law, when standards of kind, class, quality, or condition for grain are in effect under the Act, no one can describe grain being of any grade other than the official grade designation based on those standards in marketing grain.

The bill will replace the current grain standard requirements of the Act with new requirements based on an optimal grade for grain.

The optimal grade is defined as being a grade applicable to grain containing no more than one-half of one percent each of (1) foreign material, (2) damaged kernals, with not more than one-tenth of one percent heat-damaged, and (3) broken kernals, splits, or shrunken and broken kernals, as applicable.

In conjunction with this definition, a definition of "deviation from the optimal grade" will be added to the Act. The term is de-

fined as a description measuring the deviation of grain from the optimal grade.

The bill will require that, under the grain standards established under the Act, the grades for any grain will be—

(1) the optimal grade;
(2) deviation from the optimal grade; and
(3) sample grade.

The bill also will require that export grain must be inspected to determine—

(1) its grade under the optimal grading system;
(2) certified weight;
(3) nutrient content, as applicable;
(4) moisture;
(5) test weight, and
(6) other measurement information requested by an interested person.

The bill also will replace the current prohibition in the Act against describing grain by grades other than the official grade designations under the Act. The substitute language simply would prohibit false or misleading descriptions.

Study of availability of uniform end-use value tests for grain: The bill will require the Administrator of the Federal Grain Inspection Service to conduct a study of the need for and availability of uniform end-use value tests for grain. The study will include—

(1) a survey of domestic and foreign buyers of grain to determine the information about grain characteristics that would be most useful to such buyers, taking into consideration starch, oil, and protein content; breakage susceptibility; individual kernel moisture of corn; the characteristics, protein content, gluten content and quality, and milling hardness of wheat; and the protein, oil, free-fatty acid content of soybeans; and

(2) a review of the availability of tests for the characteristics identified in the survey.

The Administrator, to the extent practicable, will have to revise grain inspection and certification procedures to include those tests identified under the study as useful and available.

Not later than one year after the date of enactment of the bill, the Administrator will have to submit a report to Congress setting forth the results of the study and actions taken by him to revise procedures.

Effective date: The bill will take effect one year after the date of its enactment, except with respect to the study provisions (which will take effect on enactment).

Committee Markup

The Committee held an open business meeting on Thursday, September 11, 1986, pursuant to notice, to consider H.R. 5403, H.R. 5407, and H.R. 5354, and other pending business. By unanimous consent, the Committee discharged the Subcommittees to which H.R. 5403, 5407, and 5354 had been referred from further consideration thereof.

Chairman de la Garza then informed the Committee that the three bills, H.R. 5403 introduced by Mr. Evans of Iowa, H.R. 5407

by Mr. Smith of Iowa, and H.R. 5354 by Mr. Bruce, are similar bills that affect the Federal grain inspection program under the United States Grain Standards Act and that it would be preferable to amend and proceed with any one of the bills.

Mr. Bruce stated that, to facilitate consideration of the bills by the Committee, he would agree to using H.R. 5407 as the vehicle for Committee consideration. Mr. Bruce also noted his hope that the Committee would hold hearings on grain quality and optimal grades, which are addressed in H.R. 5354.

Mr. Evans of Iowa stated that virtually all of H.R. 5403 had been included in H.R. 5407, and he would not ask for H.R. 5403 to be considered separately.

Chairman de la Garza noted that the various legislative reports from the Department of Agriculture recommend the enactment of only parts of each of the bills. Further, Chairman de la Garza also noted the presence of Mr. Smith of Iowa and asked for any comments he wished to make. Mr. Smith said that price and quality are the two factors that have caused the United States to be the residual supplier of grains and, to some extent, oilseeds in the world. Mr. Smith said that other countries have been able to meet our price and exceed our quality. Mr. Smith further commented that had H.R. 5407 been enacted ten years ago, the United States might not be the residual supplier today.

Mr. Bedell, Chairman of the Subcommittee on Department Operations, Research, and Foreign Agriculture, said that it would be beneficial to use H.R. 5407 as the mark-up vehicle because of the work that Mr. Evans of Iowa, Mr. Bruce, Mr. Roberts, Mr. Smith of Iowa, and himself had been doing on that bill.

Mr. Roberts, ranking minority member of the Department Operations, Research, and Foreign Agriculture Subcommittee, commented that the Subcommittee had an excellent field hearing in Mr. Bruce's district on the grain quality issue, and that the issue is also very important to farmers and others in his district in Kansas. Mr. Roberts noted that some farm organizations had expressed reservations about moving ahead with legislation because of the fear that additional burdens may be placed on the agricultural producer. Mr. Roberts said that part of the problem relates to the fact that many new varieties of wheat now grown in the United States can not be classified visually, as has been the practice for the past 70 years. Mr. Roberts noted that in response to this problem he would offer an amendment to H.R. 5407 to require the Federal Grain Inspection Service to publish, in the Federal Register, a list of grain varieties that do not readily fall within the current classification system.

Chairman de la Garza then announced that H.R. 5407 was open for amendment, and recognized Mr. Evans of Iowa.

Mr. Evans of Iowa offered an amendment that he described as a technical and clarifying amendment. Mr. Evans explained that the amendment would, as a stylistic improvement, delete "ensure the tools" and insert "provide the framework"; clarify that foreign material and dockage includes dust; specify that the bill applies to both domestic and export markets; and allow dust suppressants to be added to grain. Mr. Stenholm expressed his support for the Evans amendment, and noted that they correct some major flaws

in the bill. The Committee then agreed to the Evans of Iowa amendments by voice vote.

Mr. Evans of Iowa offered a second amendment, and explained that the amendment would allow for the recombination of broken kernels or broken corn once these materials are appropriately defined on a size basis by the Administrator of the Federal Grain Inspection Service. Mr. Evans explained that the intent of the drafters of H.R. 5407 was not to prohibit the recombination of broken kernels or broken corn as that may be defined by the Administrator, but only to prohibit the introduction or reintroduction of foreign material. The Committee then agreed to Mr. Evan's second amendment by voice vote.

Mr. Evans of Iowa offered a third amendment, and explained that the amendment would allow the recombination of dockage or foreign material (but not including dust) removed at an export loading facility from grain destined for a single export cargo, to provide a uniform distribution of dockage and foreign material throughout the shipment of grain. Mr. Evans said that it is desirable to everyone, from the producer to the final user, that the dockage and foreign material in any one cargo be uniformly distributed.

Further, Mr. Evans explained that the amendment would only allow recombination for grain that is destined for shipment as one cargo, under one export certificate, when the purpose is to assure uniformity and it must be conducted in accordance with regulations issued by the Administrator. He stated that the recombination would involve only grain and removed material from the same lot.

Mr. Volkmer expressed his concern that the amendment would allow exporters to recombine dockage or foreign material removed from grain at an earlier point in the handling process to bring the shipment exactly to grade. Mr. Evans of Iowa responded that his intent was only to provide for uniformity throughout the cargo so that, for example, the man who unloads from hold number 4 of a ship receives the same quality of grain as the man who unloads from hold number 1.

Mr. Bedell said that he would vote for the Evans amendment because its effect is to eliminate the unfair discrimination against two specific grain companies. Mr. Bedell noted reservations that the amendment allows for the recombination of dockage or foreign material.

Mr. Marlenee expressed his concern that grain standards not be drawn so tightly as to have an adverse effect on farmers. Mr. Evans, in response to Mr. Marlenee, noted that in Canada the government bears the cost of cleaning in a complex cleaning operation, and while only absolutely clean grain is offered for sale, the dockage and foreign material is sold separately. Mr. Evans said that such a practice would not necessarily be desirable in the United States. Mr. Bedell expressed his view that the United States could, at a relatively low cost, also clean its grain for export to compete with the Canadians.

Mr. Roberts said that some farm organizations had expressed concerns to him that the amendment would adversely affect the overall grain quality effort, and noted that the bill already allows

the blending of grain to adjust the quality of the resulting mixtures.

Mr. Stenholm said he would be worried by an amendment that authorizes the recombination of foreign material at any level. Mr. Stenholm noted that one possible problem is that, while producers might be docked for delivering low-quality grain, exporters could recombine the foreign material after removal and make an extra profit. Mr. Evans of Iowa responded that, overall, the bill would provide rewards for those producers that produce and deliver high-quality grain. Mr. Evans noted that under the current system a farmer that delivers higher quality grain receives no premium, and the grain eventually will be blended down to a lower quality.

Mr. Stenholm offered an amendment to the Evans of Iowa amendment to terminate the authority provided by the amendment at the end of calendar year 1987. The Committee agreed to the Stenholm amendment without objection.

The Committee then agreed to the Evans of Iowa amendment, as amended, by voice vote.

Mr. Glickman offered an amendment for himself and Mr. Roberts to require the Commodity Credit Corporation to conduct a study of the feasibility and appropriateness of adjusting CCC grain premium schedules to encourage the delivery and export of high quality, clean grain. The Committee agreed to the Glickman amendment by voice vote.

Mr. Evans of Iowa offered an amendment, and explained that the amendment would allow the Secretary to authorize the blending back of foreign material and dockage on final sale to a domestic user or processor. Mr. Evans noted that the amendment places tight controls on the authority granted to allow such blending.

Mr. Bruce said that ethanol producers prefer to have a variety of kernels, including cracked and partial kernels, to make a proper mixture for production.

Mr. Glickman and Mr. Stenholm expressed concern that enforcement of the limits in the amendment would be difficult.

Mr. Stenholm offered an amendment to the Evans of Iowa amendment to terminate the authority provided by the amendment at the end of calendar year 1987. After a discussion, the Committee agreed to the Stenholm amendment. The Committee then agreed to the Evans amendment, as amended.

Mr. Bruce was recognized to offer three amendments en bloc. Mr. Bruce explained the amendment would require the Department of Agriculture to seek comments, through notice in the Federal Register, from agricultural producers and others on the desirability of a new system of optimal grain grading. Mr. Bruce said the amendment also includes section 7 of H.R. 5354, which would require a study of uniform end-use value tests to determine the desirability of testing for such things as starch, oil and protein content, breakage susceptibility, kernel moisture, and baking characteristics. Finally, Mr. Bruce noted that the amendment would require the Administrator of the FGIS to issue a rule to improve grain inspection procedures as they relate to levels of insect infestation.

Mr. Glickman and Mr. Roberts expressed their support for the Bruce amendments. The Committee then agreed to the Bruce amendments by voice vote.

Mr. Roberts offered an amendment, and explained that the amendment would require the Secretary of Agriculture to publish in the Federal Register, within 30 days after enactment of the bill, a list of wheat seed varieties that are not readily classified in the existing wheat classification system of the Federal Grain Inspection Service. Mr. Glickman expressed his support for the amendment. After a discussion of the legal ramifications of the amendment, Mr. Roberts withdrew the amendment.

Mr. Glickman offered an amendment, and explained that the amendment would require the Secretary of Agriculture to compensate a grain producer, merchant, processor, or exporter for loss of value of grain held in inventory resulting from a change by the Administrator in grain classifications under the Grain Standards Act, or regulations. Mr. Glickman later explained that such compensation would be made subject to appropriations. After a discussion, the Committee agreed to the Glickman amendment by a show of hands vote.

Mr. Marlenee offered an amendment, and explained that the amendment would require the Office of the Inspector General to conduct periodic audits of investigative reports or complaints of discrepancies or abuses received by the Administrator of the Federal Grain Inspection Service and to report to the Secretary and Congress on the audits. Mr. Marlenee explained that the reports would contain analyses of the effectiveness of the investigations and other actions taken by the Federal Grain Inspection Service with respect to investigations or other complaints, and include any recommendations for improvement of Federal grain inspection grading and weighing that the Inspector General deems appropriate based on the audits. Mr. Marlenee noted that reports on request would be made available to the public. After a discussion, Mr. Marlenee withdrew the amendment.

The Committee then agreed, by voice vote, that H.R. 5407, as amended, be reported to the House with the recommendation that the bill do pass. The staff was authorized to make any necessary clerical and conforming changes in the bill.

ADMINISTRATION POSITION

The views of the administration on H.R. 5407, the Grain Quality Improvement Act of 1986, are set forth in the following letter to the Chairman of the Committee on Agriculture:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, September 11, 1986.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Department would like to offer its comments on H.R. 5407, a bill "To amend the Grain Standards Act of 1916 to establish the policy of providing grain of high quality to both domestic and foreign buyers, to better define the purpose of the Official United States Standards for Grain, and to provide for the closer regulation of dockage and foreign material in grain."

The Department recommends that the bill be enacted, if section 3 of the bill is amended to clarify that "no person shall knowingly" recombine or add dockage or foreign material and to add an exception for the feed industry.

Section 2 of the bill would amend the current Declaration of Policy section of the U.S. Grain Standards Act (Act) to include the following objectives in the policy statement: (1) that the United States market grain of high quality to both domestic and foreign buyers; (2) that the primary objective of the Official United States Standards for Grain be to certify the quality of grain as accurately as practicable; and (3) that Official United States Standards for Grain shall—(a) define uniform and accepted descriptive terms to facilitate trade; (b) provide information to aid in determining grain storability; (c) offer users the best possible information from which to determine end-product yield and quality; and (d) ensure the tools necessary for the markets to establish quality improvement incentives.

Section 3 of the bill would prohibit recombining dockage and foreign material with any grain once such material has been removed from the grain, and would also prohibit the addition of dockage or foreign material to any grain.

The Department has supported and will continue to support legislation that would improve the quality of U.S. grain. In implementing the Act, the Federal Grain Inspection Service (FGIS) has developed and administered all of its programs including inspection, weighing and standardization to accomplish the objectives of the Act to the fullest extent practicable. We believe that the amendment to the Declaration of Policy section of the Act is consistent with the goals and objectives of FGIS' present programs. The FGIS will continue to conduct needed research and to provide official services in such a manner that useful and necessary information will be provided as accurately as possible to all interested parties so that the marketing of U.S. grain will be enhanced. Accordingly, the Department supports enactment of section 2 of the bill.

Section 3 of the bill would prohibit recombing dockage or foreign material with any grain once it has been removed as well as the addition of dockage and foreign material to any grain. It is our view, that a general prohibition of the system-wide introduction or reintroduction of dockage and foreign material to grain would be effective in accomplishing the objectives of the bill and would improve the quality of U.S. grain.

The prohibitions would be added to the list of prohibited acts set forth in section 13 of the Act. In our view, enforcement could be achieved at export port locations by Federal and State employees. However, we believe that the only practicable system in the interior is to rely on reports of violations from official agencies designated under the Act to perform official services and from other interested persons, as in presently the case in dealing with other prohibited acts such as deceptive loading of grain.

We believe that the provision of section 3 of the bill should be revised to become a subparagraph of paragraph (a) of current section 13 of the Act and that it be made clear that only the knowing recombination or addition of dockage or foreign material is to be

prohibited. In addition, the provision should specify an exception for the feed industry to permit the recombination or the addition of dockage or foreign material for feed purposes. Most dockage or foreign material has feed value; therefore, adding such material to grain for animal feed purposes should be permitted.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD E. LYNG, *Secretary.*

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 were not received by the Committee prior to the filing of this report. The Committee was advised that it is anticipated that such an estimate and comparison will be available prior to consideration of the bill on the Floor of the House.

The Committee notes that H.R. 5407, as reported, will not create any new budget authority nor involve any other direct spending outlays.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 5407, as amended, will have no inflationary impact on the national economy.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) or rule XI of the Rules of the House of Representatives and section able to the Committee with reference to the subject matter specifically addressed by H.R. 5407, as amended.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of rule X of the Rules of the House of Representatives.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES GRAIN STANDARDS ACT

To provide for United States standards and a national inspection and weighing system for grain and for other purposes

SHORT TITLE

SECTION 1. This Act may be cited as the "United States Grain Standards Act.".

DECLARATION OF POLICY

SEC. 2. Grain is an essential source of the world's total supply of human food and animal feed and is merchandised in interstate and foreign commerce. It is declared to be the policy of the Congress, for the promotion and protection of such commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general welfare of the people of the United States, to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, to provide for an official inspection system for grain, and to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce in the manner hereinafter provided; with the objectives that grain may be marketed in an orderly and timely manner and that trading in grain may be facilitated. It is hereby found that all grain and other articles and transactions in grain regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce and the regulation thereof as provided in this Act is necessary to prevent or eliminate burdens on such commerce and to regulate effectively such commerce.

It is also declared to be the policy of Congress to promote the marketing of grain of high quality to both domestic and foreign buyers; that the primary objective of the official United States standards for grain is to certify the quality of grain as accurately as practicable; and that official United States standards for grain shall—

(1) define uniform and accepted descriptive terms to facilitate trade in grain;

(2) provide information to aid in determining grain storability;

(3) offer users of such standards the best possible information from which to determine end-product yield and quality of grain; and

(4) provide the framework necessary for the markets to establish grain quality improvement incentives.

DEFINITIONS

SEC. 3. When used in this Act, except where the context requires otherwise—

* * * * * * *

(i) The term "official inspection" means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel of the kind, class, quality, or condition of grain, under standards pro-

vided for in this Act, or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or other facts relating to grain under other criteria approved by the Administrator under this Act (the term "officially inspected" shall be construed accordingly);

* * * * * * *

REFUSAL OF INSPECTION AND WEIGHING SERVICES AND CIVIL PENALTIES

SEC. 10. (a) The Administrator may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection or the services related to weighing otherwise available under this Act with respect to any grain offered for such services, or owned, wholly or in part, by any person if he determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof; or in case of any such business entity, any individual who is otherwise responsibly connected with the business) has knowingly committed any violation of section 13 of this Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain, or that official inspection or the services related to weighing have been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing such service with respect to such grain would be inimical to the integrity of the service.

(b) For purposes of paragraph (a) of this section, a person shall be deemed to be responsibly connected with a business if he was or is a partner, officer, director, or holder or owner of 10 per centum of more of its voting stock, or an employee in a managerial or executive capacity.

(c) In addition to, or in lieu of, penalties provided under section 14 of this Act, or in addition to, or in lieu of, refusal of official inspection or services related to weighing in accordance with this section, the Administrator may assess against any person who has knowingly committed any violation of section 13 of this Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain a civil penalty not to exceed $75,000 for each such violation as the Administrator determines is appropriate to effectuate the objectives stated in section 2 of this Act.

(d) Before official inspection or services related to weighing is refused to any person or a civil penalty is assessed against any person under this section, such person shall be afforded opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5 of the United States Code: *Provided,* That the Administrator may, without first affording the person a hearing, refuse official inspection or services related to weighing temporarily pending final

determination whenever the Administrator has reason to believe there is cause for refusal of inspection or services related to weighing and considers such action to be in the best interest of the official inspection system under this Act. The Administrator shall afford such person an opportunity for a hearing within seven days after temporarily refusing official inspection or services related to weighing; and such hearing and ancillary procedures related thereto shall be conducted in an expedited manner.

(e) Moneys received in payment of such civil penalties shall be deposited in the general fund of the United States Treasury. Upon any failure to pay the penalties assessed under this section, the Administrator may request the Attorney General of the United States to institute a civil action to collect the penalties in the appropriate court identified in subsection (h) of section 17 of this Act for the jurisdiction in which the respondent is found or resides or transacts business, and such court shall have jurisdiction to hear and decide any such action.

* * * * * * *

PROHIBITED ACTS

SEC. 13. (a) No person shall—

(1) knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official mark;

(2) knowingly utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other form of official mark, or knowingly possess, without promptly notifying the Administrator or his representative, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official certificate or other official form, or any device for making any official mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official mark without promptly giving such notice;

(3) knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including by not limited to deceptive loading, handling, weighing, or sampling of grain, or submitting grain for official inspection or official weighing or supervision of weighing knowing that it has been deceptively loaded, handled, weighed, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling or official weighing or supervision of weighing;

(4) alter any official sample of grain in any manner or, knowing that an official sample has been altered, thereafter represent it as an official sample;

(5) knowingly use any official grade designation or official mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container or officially weighed, respectively, and the grain was found to qualify for such designation or mark;

(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, or condition, or that particular facts hace been established with respect to grain by official inspection under this Act, or that any weighing service under this Act has been performed with respect to grain;

(7) improperly influence, or attempt to improperly influence, any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this Act; or any officer or employee of the Department of Agriculture with respect to the performance of his duties under this Act;

(8) forcibly assault, resist, oppose, impede, intimidate, or interfere with any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this Act; or any officer or employee of the Department of Agriculture in, or on account of, the performance of his duties under this Act;

(9) falsely represent that he is licensed or authorized to perform an official inspection or official weighing or supervision of weighing function under this Act;

(10) use any false or misleading means in connection with the making or filing of an application for official inspection or official weighing or supervision of weighing;

(11) violate any provision of section 5; 6; 7(f) (2), (3), or (4); 7A, 7B(c); 8; 11; 12; or 17A of this Act;

(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective weighing equipment; or

(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in grain, or the authorized agent of any such person, from observing the loading of the grain inspected under this Act and the weighing, sampling, and inspection of such grain under conditions prescribed by the Administrator.

(b) No person licensed or authorized to perform any function under this Act shall—

(1) commit any offense prohibited by subsection (a);

(2) knowingly perform improperly any offical sampling or other official inspection or weighing function under this Act;

(3) knowingly execute or issue any false or incorrect official certificate or other official form; or

(4) accept money or other consideration, directly or indirectly, for any neglect of improper performance of duty.

(c)(1) To ensure the quality of grain marketed in or exported from the United States, no dockage or foreign material, as defined by the Secretary, including dust, once removed from grain shall be recombined with any grain; and no dockage or foreign material of any origin may be added to any grain.

(2) Nothing in paragraph (1) shall be construed to prohibit—

(A) the treatment of grain to suppress, destroy, or prevent insects and fungi injurious to stored grain;

(B) the marketing, domestically or for export, of dockage or foreign material removed from grain when such dockage or foreign material is marketed separately and uncombined with any such whole grain or is marketed in pelletized form or as a part of a processed ration for livestock, poultry, or fish;

(C) the blending of grain with similar grain of a different quality to adjust the quality of the resulting mixture;

(D) the recombination of broken corn or broken kernels, as defined by the Administrator, with grain of the type from which the broken corn or broken kernels were derived;

(E) effective for the period ending December 31, 1987, the recombination of dockage or foreign material, except dust, removed at an export loading facility from grain destined for shipment as a cargo under one export official certificate of inspection when the recombination occurs during the loading of the cargo, when the purpose is to ensure uniformity of dockage or foreign material throughout that specific cargo, and when the separation and recombination are conducted in accordance with regulations issued by the Administrator;

(F) the addition to grain of a dust suppressant, or the addition of confetti or any other similar material that serves the same purpose in an amount necessary to facilitate identification of ownership or origin of a particular lot of grain; and

(G) any other addition of foreign material that may be determined by the Secretary to be in the interest of grain producers and to be neutral or constructive in achieving the goal of ensuring the quality of grain marketed in or exported from the United States.

(3) Effective for the period ending December 31, 1987, the Secretary, by regulation, may exempt from paragraph (1) the last handling of grain in the final sale and shipment of such grain to a domestic user or processor when such exemption is determined by the Secretary to be in the best economic interest of producers, grain merchants, the industry involved, and the public. Grain sold under an exemption authorized by this paragraph shall be consumed or processed into one or more products by the purchaser, but may not be resold into commercial channels for such grain or blended with other grain for resale; and neither products nor byproducts derived therefrom shall be blended with or added to grain in commercial channels except in accordance with an exemption granted by the Secretary under paragraph (2)(G).

(4) This subsection shall become effective on May 1, 1987.

[(c)] *(d)* An offense shall be deemed to have been committed knowingly under this Act if it resulted from gross negligence or was committed with knowledge of the pertinent facts.

CRIMINAL PENALTIES

SEC. 14. (a) Any person who commits an offense prohibited by section 13 (except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case he shall be subject to the general penal statutes in title 18 of the United States Code relating to crimes and offenses against the United States) shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for

not more than twelve months, or a fine of not more than $10,000, or both such imprisonment and fine; but, for each subsequent offense subject to this subsection, such person shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than $20,000, or both such imprisonment and fine.

(b) Nothing in this Act shall be construed as requiring the Administrator to report minor violations of this Act for criminal prosecution whenever he believes that the public interest will be adequately served by a suitable written notice or warning, or to report any violation of this Act for prosecution when he believes that institution of a proceeding under section 10 of this Act will obtain compliance with this Act and he institutes such a proceeding.

(c) Any officer or employee of the Department of Agriculture assigned to perform weighing functions under this Act shall be considered as an employee of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of title 18 of the United States Code.

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REPORTING REQUIREMENTS

SEC. 17B. * * *

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COMPENSATION FOR MODIFICATIONS OF GRAIN CLASSIFICATIONS

SEC. 17C. (a) The Secretary shall compensate a producer, grain merchant, grain processor, or grain exporter for loss of value of grain held in inventory if the person can show that the loss of value resulted from a change by the Administrator in grain classifications under this Act or regulations based thereon.

(b) Compensation under this section shall be paid only on the inventory of grain held by a person on the effective date of the change in classification and under procedures established by the Secretary by regulation.

(c) Compensation may be paid under this section only for losses occurring after the date of enactment of this section.

(d) Funds may be expended under this section only if provided in advance in an appropriation Act.

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APPENDIX A

Terms Relating to Foreign Material in Grain

Following are excerpts from part 810 of title 7 of the Code of Federal Regulations, defining certain terms relating to foreign material in grain and soybeans. The terms "dockage" and "foreign material" are used in the bill (although the excerpted regulations are not cited in the bill as defining the terms used therein).

DOCKAGE

Wheat.—All matter other than wheat which can be removed readily from a test portion of the original sample by use of an approved device in accordance with procedures prescribed in the Grain Inspection Handbook. Also underdeveloped, shriveled, and small pieces of wheat kernels removed in properly separating the material other than wheat and which cannot be recovered by properly rescreening or recleaning. (7 C.F.R. 810.302(e).)

Corn.—(Not applicable to corn.)

Soybeans.—(Not applicable to soybeans.)

FOREIGN MATERIAL

Wheat.—All matter other than wheat which remains in the sample after the removal of dockage and shrunken and broken kernels. (7 C.F.R. 810.302(f).)

Corn.—No similar definition.

Soybeans.—All matter, including soybeans and pieces of soybeans, which will pass readily through an $^{8}/_{64}$ sieve and all matter other than soybeans remaining on such sieve after sieving. (7 C.F.R. 810.602(d).)

BROKEN CORN AND FOREIGN MATERIAL (BCFM)

Broken corn and foreign material shall be kernels and pieces of kernels of corn and all matter other than corn which will pass readily through a $^{12}/_{64}$ sieve, and all matter other than corn which remains in the sieved sample. (7 C.F.R. 810.351(g).)

SHRUNKEN AND BROKEN KERNELS

Wheat.—All matter which can be removed from a test portion of the dockage-free sample by use of an approved device in accordance with procedures prescribed in the Grain Inspection Handbook. (7 C.F.R. 810.302(j).)

Corn.—No similar definition.

Soybeans.—No similar definition.

APPENDIX B

[H.R. 5354, 99th Cong., 2d sess.]

A Bill To Amend the United States Grain Standards Act to Provide for Optimal Grain Grading and for the Measurement of Deviations From the Optimal Grade Designation, and for Other Purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Optimal Grain Grading Act of 1986".

SEC. 2. DECLARATION OF POLICY.

Section 2 of the United States Grain Standards Act (7 U.S.C. 74) (hereinafter referred to as the "Act") is amended—

(1) in the second sentence by striking out everything after "provided;" and by inserting in lieu thereof the following: "with the objectives of (1) defining uniform and accepted descriptive terms to facilitate grain marketing, (2) providing information to aid in determining grain storability, (3) offering end users accurate information to determine end-product yield and quality, and (4) creating mechanisms for the market place to establish grain quality improvement incentives."; and

(2) in the third sentence by striking out "and" the last place it appears therein and by inserting in lieu thereof a comma and by inserting before the period at the end thereof the following: ", and to ensure the marketing of high quality grain".

SEC. 3. DEFINITIONS.

Section 3 of the Act (7 U.S.C. 785) is amended—

(1) in subsection (i) by striking out "kind, class, quality, or condition" and by inserting in lieu thereof "quality or condition" and by inserting "kind, class, or other characteristics of" before "grain" the last place it appears in such subsection;

(2) by repealing subsection (l) and by inserting in lieu thereof the following new subsection:

"(l) the term 'optimal grade' means a grade designation to be applied to grain containing no more than one-half of one percent of each of (1) foreign material, (2) damaged kernels, with not more than one-tenth of one percent heat-damaged, and (3) broken kernels, splits, or shrunken or broken kernels, as applicable;"; and

(3) by striking out "and" at the end of subsection (aa), by striking out the period and by inserting in lieu thereof "; and" at the end of subsection (bb), and by inserting at the end thereof the following new subsection:

"(cc) the term 'deviation from the optimal grade' means a description measuring the deviation of grain from the optimal grade.".

SEC. 4. STANDARDS.

Section 4(a)(1) of the Act (7 U.S.C. 76(a)(1)) is amended by striking out "kind, class, quality, and condition" and by inserting in lieu thereof "an optimal grade of quality and condition, deviation from the optimal grade, and a sample grade".

SEC. 5. OFFICIAL INSPECTION AND WEIGHING REQUIREMENTS.

Section 5(a)(1) of the Act (7 U.S.C. 77(a)(1)) is amended by striking out "the official grade designation and certified weight" and by inserting in lieu thereof the following: "the optimal grade or sample grade designation or deviation from the optimal grade, the certified weight, the nutrient content (as applicable), moisture, and test weight, and other measurable information (as requested by any interested person)".

SEC. 6. PROHIBITION OF CERTAIN ACTS.

Section 6 of the Act (7 U.S.C. 78) is amended to read as follows:

"PROHIBITION OF CERTAIN ACTS WITH RESPECT TO GRAIN

"SEC. 6. No person shall, in any sale, offer for sale, or consignment for sale of any grain which involves the shipment of such grain in interstate or foreign commerce knowingly describe such grain by any designation or other description which is false or misleading.".

SEC. 7. STUDY OF AVAILABILITY OF UNIFORM END-USE VALUE TESTS FOR GRAIN.

(a) INVESTIGATION AND STUDY.—The Administrator of the Federal Grain Inspection Service (hereinafter in this section referred to as the "Administrator") shall conduct a study of the need for and availability of uniform end-use value tests for grain. The study shall include—

(1) a survey of domestic and foreign buyers of grain to determine the information about grain characteristics which would be most useful to such buyers, taking into consideration the following characteristics:

(A) The starch, oil, protein content; breakage susceptibility; and individual kernel moisture of corn.

(B) The baking characteristics, protein content, gluten content and quality, and milling hardness of wheat.

(C) The protein, oil, and free-fatty acid content of soybeans; and

(2) a review of the availability of tests for the characteristics identified in the survey conducted under paragraph (1).

(b) CHANGES IN INSPECTION AND CERTIFICATION.—The Administrator shall, to the extent practicable, revise grain inspection and certification procedures to include those tests which are identified under the study conducted under subsection (a) as useful and available.

(c) REPORTING.—Not later than one year after the date of enactment of this Act, the Administrator shall submit a report to the Congress setting forth the results of the study and actions taken by him under subsection (b).

SEC. 8. EFFECTIVE DATE.

This Act shall take effect one year after the date of its enactment, except that section 7 shall take effect upon the date of its enactment.

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